

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

LINDA CERDA,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 1:21-cv-00574-SAB

ORDER DENYING APPLICATION TO
PROCEED *IN FORMA PAUPERIS*
WITHOUT PREJUDICE AND REQUIRING
PLAINTIFF TO FILE LONG FORM
APPLICATION

(ECF No. 3)

TWENTY DAY DEADLINE

Linda Cerda (“Plaintiff”) filed a complaint on April 6, 2021, challenging a final decision of the Commissioner of Social Security denying his application for disability benefits. Plaintiff did not pay the filing fee in this action and instead filed an application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. (ECF No. 3.) However, Plaintiff’s application does not demonstrate that she is entitled to proceed without prepayment of fees in this action.

According to the application, Plaintiff’s spouse is employed and earns \$2,560 per month, in addition to the couple receiving \$6,400 in stimulus payments. (ECF No. 2.) Taking only the spouse’s income, the household income would be \$30,720. Based on this amount of income, it does not appear that Plaintiff would be entitled to proceed without prepayment of fees.

In assessing whether a certain income level meets the poverty threshold under Section 1915(a)(1), courts look to the federal poverty guidelines developed each year by the Department of Health and Human Services. See, e.g., Lint v. City of Boise, No. CV09-72-S-EJL, 2009 WL

1149442, at *2 (D. Idaho Apr. 28, 2009) (and cases cited therein). The 2021 Poverty Guidelines for the 48 contiguous states for a household of two is \$17,420.00. 2021 Poverty Guidelines, <https://aspe.hhs.gov/2021-poverty-guidelines> (last visited April 7, 2021). Given the household income exceeding \$30,000 per year, Plaintiff's application does not currently provide sufficient information for the Court to conclude that she is entitled to proceed in this action without prepayment of fees. Accordingly, the Court will order Plaintiff to complete and file an Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form) – AO 239. If Plaintiff is unwilling to complete and submit the long form application, Plaintiff must pay the filing fee in full.

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's application to proceed *in forma pauperis* is DENIED without prejudice;
2. The Clerk of the Court is directed to forward an *in forma pauperis* application (Long Form) to Plaintiff;
3. Within **twenty (20) days** of the date of this order, Plaintiff shall either (1) pay the \$402.00 filing fee for this action, or (2) file an application to proceed *in forma pauperis* without prepayment of the fee; and
4. If Plaintiff fails to comply with this order, this action shall be dismissed.

IT IS SO ORDERED.

Dated: **April 7, 2021**


UNITED STATES MAGISTRATE JUDGE